

FIRST REGULAR SESSION

SENATE BILL NO. 274

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time January 29, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1605S.011

AN ACT

To repeal section 100.286, RSMo, and to enact in lieu thereof one new section relating to the issuance of Missouri development finance board development fund contribution tax credits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 100.286, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 100.286, to read as follows:

100.286. 1. Within the discretion of the board, the development and reserve fund, the infrastructure development fund or the export finance fund may be pledged to secure the payment of any bonds or notes issued by the board, or to secure the payment of any loan made by the board or a participating lender which loan:

(1) Is requested to finance any project or export trade activity;

(2) Is requested by a borrower who is demonstrated to be financially responsible;

(3) Can reasonably be expected to provide a benefit to the economy of this state;

(4) Is otherwise secured by a mortgage or deed of trust on real or personal property or other security satisfactory to the board; provided that loans to finance export trade activities may be secured by export accounts receivable or inventories of exportable goods satisfactory to the board;

(5) Does not exceed five million dollars;

(6) Does not have a term longer than five years if such loan is made to finance export trade activities; and

(7) Is, when used to finance export trade activities, made to small or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 medium size businesses or agricultural businesses, as may be defined by the
20 board.

21 2. The board shall prescribe standards for the evaluation of the financial
22 condition, business history, and qualifications of each borrower and the terms and
23 conditions of loans which may be secured, and may require each application to
24 include a financial report and evaluation by an independent certified public
25 accounting firm, in addition to such examination and evaluation as may be
26 conducted by any participating lender.

27 3. Each application for a loan secured by the development and reserve
28 fund, the infrastructure development fund or the export finance fund shall be
29 reviewed in the first instance by any participating lender to whom the application
30 was submitted. If satisfied that the standards prescribed by the board are met
31 and that the loan is otherwise eligible to be secured by the development and
32 reserve fund, the infrastructure development fund or the export finance fund, the
33 participating lender shall certify the same and forward the application for final
34 approval to the board.

35 4. The securing of any loans by the development and reserve fund, the
36 infrastructure development fund or the export finance fund shall be conditioned
37 upon approval of the application by the board, and receipt of an annual reserve
38 participation fee, as prescribed by the board, submitted by or on behalf of the
39 borrower.

40 5. The securing of any loan by the export finance fund for export trade
41 activities shall be conditioned upon the board's compliance with any applicable
42 treaties and international agreements, such as the general agreement on tariffs
43 and trade and the subsidies code, to which the United States is then a party.

44 6. Any taxpayer, including any charitable organization that is exempt
45 from federal income tax and whose Missouri unrelated business taxable income,
46 if any, would be subject to the state income tax imposed under chapter 143,
47 RSMo, shall be entitled to a tax credit against any tax otherwise due under the
48 provisions of chapter 143, RSMo, excluding withholding tax imposed by sections
49 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in the
50 amount of fifty percent of any amount contributed in money or property by the
51 taxpayer to the development and reserve fund, the infrastructure development
52 fund or the export finance fund during the taxpayer's tax year, provided, however,
53 the total tax credits awarded in any calendar year beginning after January 1,
54 1994, shall not be the greater of ten million dollars or five percent of the average

55 growth in general revenue receipts in the preceding three fiscal years. [This limit
56 may be exceeded only upon joint agreement by the commissioner of
57 administration, the director of the department of economic development, and the
58 director of the department of revenue that such action is essential to ensure
59 retention or attraction of investment in Missouri.] If the board receives, as a
60 contribution, real property, the contributor at such contributor's own expense
61 shall have two independent appraisals conducted by appraisers certified by the
62 Master Appraisal Institute. Both appraisals shall be submitted to the board, and
63 the tax credit certified by the board to the contributor shall be based upon the
64 value of the lower of the two appraisals. The board shall not certify the tax credit
65 until the property is deeded to the board. Such credit shall not apply to reserve
66 participation fees paid by borrowers under sections 100.250 to 100.297. The
67 portion of earned tax credits which exceeds the taxpayer's tax liability may be
68 carried forward for up to five years.

69 7. Notwithstanding any provision of law to the contrary, any taxpayer
70 may sell, assign, exchange, convey or otherwise transfer tax credits allowed in
71 subsection 6 of this section under the terms and conditions prescribed in
72 subdivisions (1) and (2) of this subsection. Such taxpayer, hereinafter the
73 assignor for the purpose of this subsection, may sell, assign, exchange or
74 otherwise transfer earned tax credits:

75 (1) For no less than seventy-five percent of the par value of such credits;
76 and

77 (2) In an amount not to exceed one hundred percent of annual earned
78 credits.

79 The taxpayer acquiring earned credits, hereinafter the assignee for the purpose
80 of this subsection, may use the acquired credits to offset up to one hundred
81 percent of the tax liabilities otherwise imposed by chapter 143, RSMo, excluding
82 withholding tax imposed by sections 143.191 to 143.261, RSMo, chapter 147,
83 RSMo, or chapter 148, RSMo. Unused credits in the hands of the assignee may
84 be carried forward for up to five years, provided all such credits shall be claimed
85 within ten years following the tax years in which the contribution was made. The
86 assignor shall enter into a written agreement with the assignee establishing the
87 terms and conditions of the agreement and shall perfect such transfer by
88 notifying the board in writing within thirty calendar days following the effective
89 day of the transfer and shall provide any information as may be required by the
90 board to administer and carry out the provisions of this section. Notwithstanding

91 any other provision of law to the contrary, the amount received by the assignor
92 of such tax credit shall be taxable as income of the assignor, and the excess of the
93 par value of such credit over the amount paid by the assignee for such credit shall
94 be taxable as income of the assignee.

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